

Remarks/Arguments:

In response to the Office Action, the applicants offer the following remarks. The remarks are provided in the order of the paragraphs as presented in the Office Action.

Claims 5, 7-10, and 12-48 are pending in the application.

A. Anticipation, Section 102(b)

The Office Action rejects claims 5 and 7-10 under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 5,498,709 issued to Navia et al. The Office Action, citing Navia at col. 10, lines 15-25 and col. 6, lines 35-67, states that Navia teaches extracting a mixture of sucralose and impurities in an aqueous-brine solvent (first solvent) with ethyl acetate (second solvent) to transfer impurities into the second solvent, and then back-extracting the ethyl acetate extracts with water (third solvent) to transfer the sucralose into the water while retaining the second impurities in the first solvent.

Claims 5 and 7-10 have been amended to clarify the sequence of extraction steps, as supported in the application at numerous places, including paragraph [0035]. No new matter has been added. The Applicants respectfully disagree that the cited passages in Navia teach extracting the starting composition with a second solvent to transfer impurities into that second solvent. Rather, Navia teaches the transfer of sucralose into the second solvent (ethyl acetate), and recovery of crystalline sucralose from that solvent. In contradistinction, amended claims 5 and 7-10 recite the transfer of impurities into the second solvent, and thus this limitation is not taught by Navia. Further, Navia does not teach extracting the partially purified composition (comprising sucralose, second impurities, and the first solvent) so obtained with a third solvent to transfer sucralose into that third solvent. Rather, Navia uses a third solvent (water) to extract sucralose from the second solvent, and thus Navia does not teach the limitation of part (b) of claims 5 and 7-10. Thus Navia does not teach at least two of the limitations of claims 5 and 7-10, and rejection of these claims is improper. Reconsideration is therefore respectfully requested.

The Office Action also states, regarding claim 8, that Navia at col. 10 lines 5-20 teaches steam stripping of DMF to remove it from the reaction mixture, and that this is considered by the Office to be an extraction with a second solvent wherein some of the impurities will also be transferred out of the mixture. The Applicants respectfully disagree that steam distillation is an extraction with a solvent, as that term is normally used in the chemical art. Further, there is no

second solvent, since there is no second liquid phase; Navia makes it clear at col. 5 line 38 that the steam must be condensation-free, and therefore only gaseous (not liquid) water is present.

The Applicants also note that water and DMF are miscible, not partially immiscible as required by the claims, and thus liquid water, even if used for extraction as recited in part (a) of claim 8, would not meet this claim limitation. Further, there is no teaching in Navia that the steam stripping removes impurities (as distinct from solvent, i.e. DMF), and so this limitation is not taught by Navia even if one accepts the non-standard characterization of steam stripping as an "extraction." Thus, for any and all of these reasons, Navia does not teach at least part (a) of claim 8, and the rejection is improper. Reconsideration is therefore respectfully requested.

B. Allowed Claims

The applicants acknowledge with appreciation the Examiner's indication that claims 12-48 have been allowed.

C. Conclusion

For all of the foregoing reasons, pending claims 5, 7-10, and 12-48 are in condition for allowance. The rejections under 35 U.S.C. § 102 should all be withdrawn, and favorable action is earnestly solicited.

Respectfully submitted,



Kevin R. Casey Reg. No. 32,117
Frank P. Tise Reg. No. 50,379
Attorney and Agent for Applicants

Attachments:

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<input checked="" type="checkbox"/> P.O. Box 980 Valley Forge, PA 19482 (610) 407-0700
<input type="checkbox"/> P.O. Box 1596 Wilmington, DE 19899 (302) 778-2500

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June 22, 2004
Keith Curran